

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AWILDA GOMEZ

Plaintiff, ANSWER
-against-

07 CIV. 9296 (CLB)(GAY)

VILLAGE OF SLEEPY HOLLOW, DETECTIVE JOSE QUINOY in his individual and official capacity, POLICE OFFICER ELDRYK EBEL in his individual and official capacity, POLICE OFFICER MIKE GASKER in his individual and official capacity, LIEUTENANT BARRY CAMPBELL in his individual and official capacity, LIEUTENANT GABRIEL HAYES in his individual and official capacity, SERGEANT WOOD in his individual and official capacity, CHIEF OF POLICE JIMMY WARREN in his individual and official capacity, and POLICE OFFICERS JOHN DOES 1 – 4,

Defendants.

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Defendants, VILLAGE OF SLEEPY HOLLOW, DETECTIVE JOSE QUINOY in his individual and official capacity, POLICE OFFICER ELDRYK EBEL in his individual and official capacity, POLICE OFFICER MIKE GASKER in his individual and official capacity, LIEUTENANT BARRY CAMPBELL in his individual and official capacity, LIEUTENANT GABRIEL HAYES in his individual and official capacity, SERGEANT WOOD in his individual and official capacity, CHIEF OF POLICE JIMMY WARREN in his individual and official capacity, and POLICE OFFICERS JOHN DOES 1 – 4, by their attorneys, MIRANDA SOKOLOFF SAMBURSKY SLOWNE VERVENIOTIS LLP, answering the plaintiff's Complaint, sets forth, upon information and belief, the following:

INTRODUCTION AND GENERAL ALLEGATIONS

1. Deny each and every allegation contained in paragraph "1" of the complaint.
2. Deny each and every allegation contained in paragraph "2" of the complaint.
3. Deny each and every allegation contained in paragraph "3" of the complaint.
4. Deny each and every allegation contained in paragraph "4" of the complaint.
5. Deny each and every allegation contained in paragraph "5" of the complaint.
6. Deny each and every allegation contained in paragraph "6" of the complaint.
7. Deny each and every allegation contained in paragraph "7" of the complaint.
8. Deny each and every allegation contained in paragraph "8" of the complaint.

JURISDICTION AND VENUE

9. Deny each and every allegation contained in paragraph "9" of the complaint and respectfully refer all questions of law to the Court for adjudication.
10. Deny each and every allegation contained in paragraph "10" of the complaint and respectfully refer all questions of law to the Court for adjudication.

PARTIES

11. Deny having knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph "11" of the complaint.
12. Deny having knowledge and information sufficient to form a belief as to the truth of the allegations contained in "12" paragraph of the complaint.
13. Deny each and every allegation contained in paragraph "13" of the complaint.
14. Deny each and every allegation contained in paragraph "14" of the complaint.
15. Deny each and every allegation contained in paragraph "15" of the complaint.

16. Deny each and every allegation contained in paragraph "16" of the complaint.
17. Deny each and every allegation contained in paragraph "17" of the complaint.
18. Deny each and every allegation contained in paragraph "18" of the complaint.

STATEMENT OF FACTS

19. Deny having knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph "19" of the complaint.
20. Deny each and every allegation contained in paragraph "20" of the complaint.
21. Deny each and every allegation contained in paragraph "21" of the complaint.
22. Deny each and every allegation contained in paragraph "22" of the complaint.
23. Deny each and every allegation contained in paragraph "23" of the complaint.
24. Deny having knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph "24" of the complaint.
25. Deny each and every allegation contained in paragraph "25" of the complaint.
26. Deny each and every allegation contained in paragraph "26" of the complaint.
27. Deny each and every allegation contained in paragraph "27" of the complaint.
28. Deny each and every allegation contained in paragraph "28" of the complaint.
29. Deny each and every allegation contained in paragraph "29" of the complaint and respectfully refer all questions of law to the Court for adjudication.
30. Deny each and every allegation contained in paragraph "30" of the complaint and respectfully refer all questions of law to the Court for adjudication.

31. Deny each and every allegation contained in paragraph "31" of the complaint and respectfully refer all questions of law to the Court for adjudication.

AS AND FOR A FIRST CAUSE OF ACTION
42 U.S.C. § 1983 - EXCESSIVE USE OF FORCE

32. As and for a response to paragraph "32" of plaintiff's complaint, defendants repeat and reallege each and every allegation contained in paragraphs "1" through "31" of this answer with the same force and effect as if fully set forth at length herein.
33. Deny each and every allegation contained in paragraph "33" of the complaint.
34. Deny each and every allegation contained in paragraph "34" of the complaint.
35. Deny each and every allegation contained in paragraph "35" of the complaint.
36. Deny each and every allegation contained in paragraph "36" of the complaint.
37. Deny each and every allegation contained in paragraph "37" of the complaint.

AS AND FOR A SECOND CAUSE OF ACTION
False Arrest

38. As and for a response to paragraph "38" of plaintiff's complaint, defendants repeat and reallege each and every allegation contained in paragraphs "1" through "37" of this answer with the same force and effect as if fully set forth at length herein.
39. Deny each and every allegation contained in paragraph "39" of the complaint.
40. Deny each and every allegation contained in paragraph "40" of the complaint.
41. Deny each and every allegation contained in paragraph "41" of the complaint.

42. Deny each and every allegation contained in paragraph "42" of the complaint

AS AND FOR A THIRD CAUSE OF ACTION
False Imprisonment

43. As and for a response to paragraph "43" of plaintiff's complaint, defendants repeat and reallege each and every allegation contained in paragraphs "1" through "42" of this answer with the same force and effect as if fully set forth at length herein.
44. Deny each and every allegation contained in paragraph "44" of the complaint.
45. Deny each and every allegation contained in paragraph "45" of the complaint.
46. Deny each and every allegation contained in paragraph "46" of the complaint.
47. Deny each and every allegation contained in paragraph "47" of the complaint.

AS AND FOR A FOURTH CAUSE OF ACTION
Malicious Prosecution

48. As and for a response to paragraph "48" of plaintiff's complaint, defendants repeat and reallege each and every allegation contained in paragraphs "1" through "47" of this answer with the same force and effect as if fully set forth at length herein.
49. Deny each and every allegation contained in paragraph "49" of the complaint.
50. Deny each and every allegation contained in paragraph "50" of the complaint.
51. Deny each and every allegation contained in paragraph "51" of the complaint.
52. Deny each and every allegation contained in paragraph "52" of the complaint.

AS AND FOR A FIFTH CAUSE OF ACTION
42 U.S.C. § 1983 - Municipal Violations

53. As and for a response to paragraph "53" of plaintiff's complaint, defendants repeat and reallege each and every allegation contained in paragraphs "1" through "52" of this answer with the same force and effect as if fully set forth at length herein.
54. Deny each and every allegation contained in paragraph "54" of the complaint.
55. Deny each and every allegation contained in paragraph "55" of the complaint.
56. Deny each and every allegation contained in paragraph "56" of the complaint
57. Deny each and every allegation contained in paragraph "57" of the complaint, including all of its subparts.
58. Deny each and every allegation contained in paragraph "58" of the complaint
59. Deny each and every allegation contained in paragraph "59" of the complaint.
60. Deny each and every allegation contained in paragraph "60" of the complaint.
61. Deny each and every allegation contained in paragraph "61" of the complaint.
62. Deny each and every allegation contained in paragraph "62" of the complaint.
63. Deny each and every allegation contained in paragraph "63" of the complaint.
64. Deny each and every allegation contained in paragraph "64" of the complaint.

AS AND FOR A SIXTH CAUSE OF ACTION
42 U.S.C. § 1985

65. As and for a response to paragraph "65" of plaintiff's complaint, defendants repeat and reallege each and every allegation contained in paragraphs "1" through

“64” of this answer with the same force and effect as if fully set forth at length herein.

66. Deny each and every allegation contained in paragraph “66” of the complaint.
67. Deny each and every allegation contained in paragraph “67” of the complaint.
68. Deny each and every allegation contained in paragraph “68” of the complaint.
69. Deny each and every allegation contained in paragraph “69” of the complaint.
70. Deny each and every allegation contained in paragraph “70” of the complaint.
71. Deny each and every allegation contained in paragraph “71” of the complaint.

AS AND FOR A SEVENTH CAUSE OF ACTION

72. As and for a response to paragraph “72” of plaintiff’s complaint, defendants repeat and reallege each and every allegation contained in paragraphs “1” through “71” of this answer with the same force and effect as if fully set forth at length herein.
73. Deny each and every allegation contained in paragraph “73” of the complaint.
74. Deny each and every allegation contained in paragraph “74” of the complaint.
75. Deny each and every allegation contained in paragraph “75” of the complaint.

AFFIRMATIVE DEFENSES:

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

76. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

77. At all times relevant to the acts alleged in the complaint, defendants, their agents and officials, acted reasonably, properly, and in the lawful exercise of their discretion. Therefore, they are entitled to governmental immunity from liability.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

78. There was probable cause for plaintiff's arrest and detention.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

79. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and was not the proximate result of any act of the defendants.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

80. That the individual defendants are entitled to qualified immunity.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

81. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor have they violated any Act of Congress providing for the protection of civil rights.

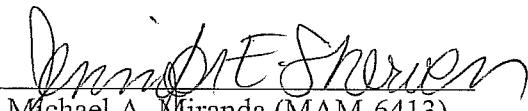
AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

82. No policy, practice, or procedure of the Village of Sleepy Hollow deprived plaintiff of any constitutional rights.

WHEREFORE, defendants request judgment dismissing the complaint and denying all relief requested therein, together with such other and further relief as the Court deems just and proper.

Dated: Mineola, New York
December 5, 2007

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